

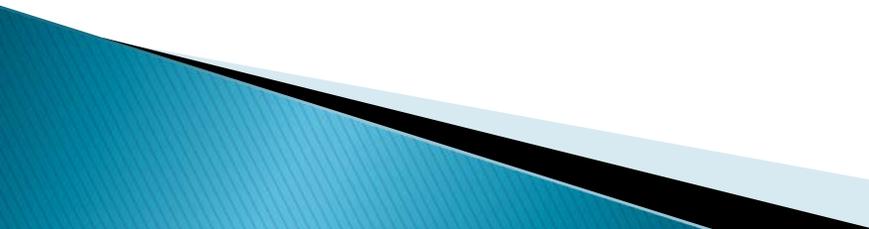
# FY14 Tobacco Settlement Revenue

Presentation to the Tobacco Settlement Revenue  
Oversight Committee  
June 18, 2014

# 2013 Legislature

- ▶ Initial FY14 tobacco settlement revenue estimate: \$39.5 million.
- ▶ GAA of 2013 appropriations :
  - 6-4-9B NMSA 1978 – 50% of TSPF revenue to the Tobacco Settlement Program Fund. GAA appropriated \$19.3 to state agencies for tobacco cessation and other programs (see table);
  - 6-4-9D NMSA 1978 – 25% of TSPF revenue (\$9.875 million) to lottery tuition fund; and
  - 6-4-9E NMSA 1978 – 25% of revenue (\$9.875 million) to the tobacco settlement program fund.
  - Of this amount, \$9.75 million for early childhood care and education programs administered by CYFD.

# 2014 Legislature

- ▶ However, arbitration panel ruled in favor of the tobacco manufacturers that New Mexico did not diligently enforce the provisions of the MSA.
  - ▶ The ruling would result in a reduction in the FY14 transfer to the TSPF.
  - ▶ Attorney General's office estimated reduction ranging from \$12–24 million.
  - ▶ LFC Estimated the reduction to be \$20 million for budgeting purposes, and adjusted its tobacco revenue estimate to \$19.5 million.
- 

# 2014 Legislature (Continued)

- ▶ Legislature made efforts to backfill \$39.5 million in appropriations in the face of the reduced tobacco revenue. This included:
  - GAA Language transferring from the TSPF the difference between the appropriated \$19.3 million and the transfer of 50% of the revenue to the TSPF;
  - GAA Language transferring the 25% of tobacco revenue to the Lottery Tuition Fund back to the TSPF. (vetoed); and
  - Language replacing the appropriation to CYFD with TANF funds.

# Updated Tobacco MSA Revenue

- ▶ After the 2014 session, the AG reported total FY14 MSA transfers to the TSPF were \$21.1 million, above the \$19.5 million estimate.
- ▶ LFC staff updated relevant tables to show the effect of the above changes.
  - Table 1 –GFFS showing LFC’s accounting of the tobacco revenue transfers.
  - Table 2 –Tobacco Settlement Program Fund Appropriations for FY14 and FY15.
  - Table 3 –Lottery Scholarship Funding

# Revenue Uncertainty

- ▶ Possible GAA Language Ambiguity
- ▶ FY14 Investment Returns are an upside risk:
  - FY14 estimated: 7.5%
  - FY14 Q1–Q3: 14.2%
- ▶ Potential FY15 revenue reduction due to additional challenge.
  - Big Tobacco has challenged MSA enforcement for 2004.
  - Uncertain when arbitration panel will make a ruling. (2003 challenge took ~4 years.)

**General Fund Financial Summary: Laws 2014, Chapter 63 (GAA of 2014)**

(in millions of dollars)

June 11, 2014	Final FY2013	Estimated FY2014	Estimated FY2015
<b>APPROPRIATION ACCOUNT</b>			
<b>REVENUE</b>			
Recurring Revenue			
December 2013 Consensus Forecast.	\$ 5,707.8	\$ 5,863.7	\$ 6,186.0
Total Recurring Revenue	\$ 5,707.9	\$ 5,863.7	\$ 6,186.0
Nonrecurring Revenue			
December 2013 Consensus Forecast.	\$ 0.6		
2014 Regular Session - Legislation (1)		\$ (2.4)	\$ (2.4)
Total Non-Recurring Revenue	\$ 0.6	\$ (2.4)	\$ (2.4)
<b>TOTAL REVENUE</b>	<b>\$ 5,708.6</b>	<b>\$ 5,861.3</b>	<b>\$ 6,183.6</b>
<b>APPROPRIATIONS</b>			
Recurring Appropriations			
General Appropriation	\$ 5,649.6	\$ 5,892.9	\$ 6,151.2
Legislative Session Costs - Feed Bill	\$ 9.2	\$ 5.4	\$ -
2014 Special Appropriations (2)	\$ -	\$ -	\$ 13.4
Total Recurring Appropriations	\$ 5,658.8	\$ 5,898.3	\$ 6,164.6
Nonrecurring Appropriations			
Prior-Year Appropriations	\$ 89.5	\$ -	\$ -
FY13 Audit Adjustment	\$ (21.2)	\$ 1.5	\$ -
2014 IT Project Funding		\$ 7.7	\$ -
2014 Deficiencies, Supplementals, Specials		\$ 32.5	\$ -
2015 Special Appropriations (3)	\$ -		\$ -
Total Nonrecurring Appropriations	\$ 68.3	\$ 41.7	\$ -
<b>TOTAL APPROPRIATIONS</b>	<b>\$ 5,727.1</b>	<b>\$ 5,939.9</b>	<b>\$ 6,164.6</b>
Transfer to(from) Reserves	\$ (18.5)	\$ (78.6)	\$ 19.0
<b>GENERAL FUND RESERVES</b>			
Beginning Balances	\$ 712.9	\$ 671.4	\$ 540.6
Transfers from (to) Appropriations Account	\$ (18.5)	\$ (78.6)	\$ 19.0
Revenue and Reversions	\$ 75.9	\$ 50.9	\$ 48.1
Appropriations, Expenditures and Transfers Out	\$ (98.9)	\$ (103.0)	\$ (52.8)
<b>Ending Balances</b>	<b>\$ 671.4</b>	<b>\$ 540.6</b>	<b>\$ 554.9</b>
<i>Reserves as a Percent of Recurring Appropriations</i>	<i>11.9%</i>	<i>9.2%</i>	<i>9.0%</i>

**Notes:**

(1) Nonrecurring revenue reduction in FY14 reflects reduced State Land Office distribution to the general fund pursuant to expenditure of a special appropriation and an IT appropriation from the land maintenance fund.

(2) Recurring special appropriations include \$11.5 million for the lottery tuition fund; \$461 thousand to the AOC for increased employer pension costs; \$500 thousand to the Tourism Department for cooperative advertising, \$350 thousand to DFA for RETA, \$1 million to EDD for JTIP, and \$98 thousand for 2 FTE at LESC.

**General Fund Financial Summary: Laws 2014, Chapter 63 (GAA of 2014)**

**RESERVE DETAIL**

(in millions of dollars)

	<b>Final FY2013</b>	<b>Estimated FY2014</b>	<b>Estimated FY2015</b>
<b>OPERATING RESERVE</b>			
Beginning Balance	\$ 346.8	\$ 327.1	\$ 197.8
BOF Emergency Appropriations/Reversions	\$ (1.2)	\$ (2.0)	\$ (2.0)
Contingent Liability - Cash Management (1)	\$ -	\$ (31.7)	\$ -
Transfers from/to Appropriation Account	\$ (18.5)	\$ (78.6)	\$ 19.0
Contingent Liability for PED MOE (HB2 & HB628) (2)	\$ -	\$ -	\$ -
Transfer to ACF/Other Appropriations	\$ -	\$ (17.0)	\$ (15.0)
Ending Balance	\$ 327.1	\$ 197.8	\$ 199.8
<b>APPROPRIATION CONTINGENCY FUND</b>			
Beginning Balance	\$ 29.5	\$ 16.4	\$ 16.9
Disaster Allotments	\$ (28.4)	\$ (16.0)	\$ (16.0)
Other Appropriations (3)	\$ -	\$ (0.5)	\$ -
Transfers In (4)	\$ -	\$ 17.0	\$ 15.0
Revenue and Reversions	\$ 15.3	\$ -	\$ -
Ending Balance	\$ 16.4	\$ 16.9	\$ 15.9
<b>Education Lock Box</b>			
Beginning Balance	\$ 39.1	\$ 9.1	\$ 3.1
Appropriations (GAA Section 5&6) (5)	\$ (30.0)	\$ (6.0)	\$ -
Transfers In (Out)	\$ -	\$ -	\$ -
Ending Balance	\$ 9.1	\$ 3.1	\$ 3.1
Total of Appropriation Contingency Fund	\$ 25.5	\$ 20.0	\$ 19.0
<b>STATE SUPPORT FUND</b>			
Beginning Balance	\$ 1.0	\$ 1.0	\$ 1.0
Revenues	\$ -	\$ -	\$ -
Appropriations	\$ -	\$ -	\$ -
Ending Balance	\$ 1.0	\$ 1.0	\$ 1.0
<b>TOBACCO PERMANENT FUND</b>			
Beginning Balance	\$ 149.0	\$ 170.3	\$ 174.3
Transfers In	\$ 39.3	\$ 21.1	\$ 20.0
Appropriation to Tobacco Settlement Program Fund (6)	\$ (19.7)	\$ (10.6)	\$ (10.0)
Gains/Losses	\$ 21.3	\$ 12.8	\$ 13.1
Additional Transfers From TSPF (7)	\$ (19.7)	\$ (19.3)	\$ (9.8)
Ending Balance	\$ 170.3	\$ 174.3	\$ 187.6
<b>TAX STABILIZATION RESERVE</b>			
Beginning Balance	\$ 147.5	\$ 147.5	\$ 147.5
Transfers In	\$ -	\$ -	\$ -
Ending Balance	\$ 147.5	\$ 147.5	\$ 147.5
<b>GENERAL FUND ENDING BALANCES</b>	<b>\$ 671.4</b>	<b>\$ 540.6</b>	<b>\$ 554.9</b>
<i>Percent of Recurring Appropriations</i>	<i>11.9%</i>	<i>9.2%</i>	<i>9.0%</i>

**Notes:**

(1) The FY13 general fund audit does not reduce the operating reserve by a \$31.7 million contingent liability in FY13 (in addition to the previously identified \$70 million contingent liability in FY12) for SHARE reconciliation to the cash account. However, DFA's unaudited FY12 CAFR includes such a contingency in FY12. Though not included in the FY13 audit, the contingent liability is a downside risk to reserves, and is reported in FY14 in this summary.

(2) Consistent with the FY13 general fund audit, this summary does not include a FY13 transfer of \$20 million nor a \$16 million transfer in FY14 from the operating reserve to PED contingent on appropriation in the GAAs of 2012 and 2013 being insufficient to meet federal IDEA maintenance of effort (MOE) requirements.

(3) \$500 thousand to the Office of Military Base Planning for the preservation of US military bases in New Mexico.

(4) Laws 2013 Section 11, transferred \$17 million from the operating reserve to replenish the ACF.

(5) FY13 includes \$15.4 million contingent on the state not meeting IDEA MOE requirements for FY14 and \$14.6 million in other education-related appropriations. FY14 includes \$2.5 million for professional development and \$3.5 million to the instructional material fund.

(6) Assumes reduction in FY14 Tobacco MSA payment is \$20 million. This reduction is an estimate pending final determination of the MSA payment reduction, projected to be \$12-\$24 million.

(7) The GAA of 2014 makes appropriations for CYFD and lottery tuition programs with non-tobacco funds. A provision transferring tobacco funds back from the lottery tuition fund was vetoed, representing approximately \$4.9 million in increased expenditure from the TSPF. A further \$4.9 million expenditure results from transfers for CYFD made in Chapter 228 of Laws 2013. Total expenditures reflect language restoring a \$19.3 million appropriation from the tobacco settlement program fund in the event of a reduction in tobacco settlement revenue.

**Tobacco Settlement Program Fund Appropriations**  
(in thousands of dollars)

Agency	Purpose	FY13 Laws 2012, Chapter 19	FY 14 Laws 2013 Chapter 227 and Chapter 228 (1) & (2)	FY14 (updated Tobacco Revenue and Laws 2014)	FY15 Laws 2014, Chapter 63 (2)
609 Indian Affairs	Tobacco cessation programs	249.3	249.3	249.3	249.3
630 Human Services Department	Medicaid -- Breast and cervical cancer treatment	1,312.4	1,312.4	1,312.4	1,312.4
630 Human Services Department	Medicaid	27,190.0	7,907.3	7,907.3	7,907.3
665 Department of Health	Tobacco cessation and prevention	5,682.0	5,682.0	5,682.0	5,682.0
665 Department of Health	Diabetes prevention and control	748.0	748.0	748.0	748.0
665 Department of Health	HIV/AIDS services	293.0	293.0	293.0	293.0
665 Department of Health	Breast and cervical cancer screening	128.6	128.6	128.6	128.6
690 Children, Youth & Families	Early childhood funding		<u>9,750.0</u>	<u>5,275.0</u>	
950 Higher Education Department	Transfer to lottery tuition fund for scholarships		<u>9,875.0</u>	<u>5,275.0</u>	
952 University of New Mexico HSC	Instruction and general purposes	607.9	607.9	607.9	607.9
952 University of New Mexico HSC	Research in genomics and environmental health	979.8	979.8	979.8	979.8
952 University of New Mexico HSC	Poison control center	590.2	590.2	590.2	590.2
952 University of New Mexico HSC	Pediatric oncology program	261.4	261.4	261.4	261.4
952 University of New Mexico HSC	Specialty education in trauma	261.4	261.4	261.4	261.4
952 University of New Mexico HSC	Specialty education in pediatrics	261.4	261.4	261.4	261.4
Sub-total University of New Mexico HSC		2,962.1	2,962.1	2,962.1	2962.1
<b>Total Appropriations</b>		38,565.4	38,907.7		19,282.7

(1) Laws 2013, Chapter 228 (Senate Bill 113) makes an FY14 appropriation of \$9.75 million to the CYFD for early childhood programs and transfers \$9.875 million to the lottery tuition fund.

(2) Section 12 of the General Appropriation Act of 2014 includes provisions to transfer funding to cover any shortfalls in either FY14 or FY15 tobacco fund appropriations contained in Section 4 of the General Appropriation Acts for FY14 and FY15 due to a reduction in transfers from the tobacco companies due to arbitration decisions or other legal issues.

**Legislative Lottery Scholarship Program: Laws 2014, Chapters 63 and 80 (SB 347)**  
(in thousands of dollars)

	FY13 Audited Actuals	FY14		FY15	FY16	FY17
		FY14 OpBud	Laws 2014, Chs. 63 (SB 313) and 80 (SB 347)	Laws 2014, Chs. 63 (SB 313) and 80 (SB 347)	Laws 2014, Chs. 63 (SB 313) and 80 (SB 347)	Laws 2014, Ch. 80 (SB 347)
<b>Revenues</b>						
Lottery Revenues	\$43,685.0	\$42,237.8	\$42,237.8	\$43,000.0	\$43,000.0	\$43,000.0
Lottery Tuition Fund Beginning Balance	\$36,902.7	\$16,248.6	\$18,810.3	\$12,395.9	\$2,483.1	\$2,418.2
Tobacco Settlement Fund Revenues			\$5,275.0			
Special Recurring General Fund Appropriation			\$0.0	\$11,500.0	\$0.0	\$0.0
Transfer Student Financial Aid - Special Program Fund Balance			\$11,000.0	\$0.0	\$0.0	\$0.0
Special Nonrecurring General Fund Appropriation			\$2,900.0	\$0.0	\$0.0	\$0.0
Liquor Excise Tax Distribution			\$0.0	\$0.0	\$19,000.0	\$19,000.0
<b>Available Revenues</b>	<b>\$80,587.7</b>	<b>\$68,361.4</b>	<b>\$80,223.1</b>	<b>\$66,895.9</b>	<b>\$64,483.1</b>	<b>\$64,418.2</b>
<b>Expenditures</b>						
<b>Scholarships - Percent of Tuition Awarded<sup>1</sup></b>				93% of est. avg. full tuition	87% of est. avg. full tuition	90% of est. avg. full tuition
Research Awards	\$54,487.9		\$58,462.3	\$56,318.0	\$54,265.2	\$57,820.5
Comprehensive Awards	\$3,395.4		\$4,929.7	\$5,003.7	\$4,821.3	\$5,137.1
Two-year Awards	\$3,994.0		\$4,435.2	\$4,317.6	\$4,160.2	\$4,432.7
<b>Subtotal Scholarship Awards</b>	<b>\$61,877.3</b>		<b>\$67,827.2</b>	<b>\$65,639.3</b>	<b>\$63,246.6</b>	<b>\$67,390.3</b>
<b>Program Savings</b>						
15 Credit Hour Minimum <sup>2</sup>				-\$1,226.4	-\$1,181.7	-\$1,259.2
No Eighth Semester						-\$4,306.8
<b>Total Expenditures</b>	<b>\$61,877.3</b>	<b>\$66,316.8</b>	<b>\$67,827.2</b>	<b>\$64,412.8</b>	<b>\$62,064.9</b>	<b>\$61,824.4</b>
<b>Est. year-end lottery tuition fund balance (Available Revenues - Expenditures)</b>	<b>\$18,710.4</b>	<b>\$2,044.6</b>	<b>\$12,395.9</b>	<b>\$2,483.1</b>	<b>\$2,418.2</b>	<b>\$2,593.8</b>

Source: HED/LFC Files

**Notes:**

(1) LFC staff assume a 3 percent yearly tuition increase.

(2) 15 Credit Hour Minimum: LFC staff assume a 2 percent reduction in students receiving lottery scholarship because they cannot satisfy the higher credit hour requirement.